

1500 SW Arrowhead Road  
Topeka, KS 66604-4027



Phone: 785-271-3100  
Fax: 785-271-3354  
<http://kcc.ks.gov/>

Pat Apple, Chairman  
Shari Feist Albrecht, Commissioner  
Jay Scott Emler, Commissioner

Sam Brownback, Governor

## NOTICE OF PENALTY ASSESSMENT

May 25, 2017

17-TRAM-507-PEN

Gary Cathey, Owner  
d/b/a CK Enterprises  
2501 N Broadway  
Wichita, Kansas 67219

Certified Mail No. 70161970000105740693

This is a notice of a penalty assessment against Gary Cathey, d/b/a CK Enterprises for violation(s) of Kansas Motor Carrier Safety Statutes, Rules, and Regulations discovered during a compliance review conducted on April 10, 2017, by Kansas Corporation Commission Special Investigator(s) Gary Goeller. Penalty amounts are assessed in accordance with the FY 2017 Uniform Penalty Assessment Matrix, approved by the Commission on August 18, 2016. For a full description of the penalty(s) and terms and obligations please refer to the Order that is attached to this notice.

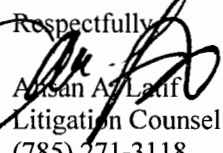
**IF YOU ACCEPT THE PENALTY:** CK Enterprises has been assessed a \$4,200 penalty. You have thirty (30) days from the date of service of this Penalty Order to pay the fine amount. Please remit payment of \$4,200, through your personal account with the Kansas Corporation Commission's KTRAN application located at <https://puc.kcc.ks.gov/ktran/>. If you have not received a letter from the Transportation Division assigning you a PIN, please contact that Division at 785-271-3145. You must have an account through KTRAN to pay the penalty owed.

You must attend a Commission-sponsored safety seminar within ninety (90) days from the date of the attached Order and provide Staff with written proof of attendance. A schedule of dates and locations for the safety seminar can be found at the Commission's website [http://www.kcc.state.ks.us/trans/safety\\_meetings.htm](http://www.kcc.state.ks.us/trans/safety_meetings.htm).

You must submit to one follow-up safety compliance review within 18 months from the date of the attached Order. Transportation Staff will contact you at a later date to determine an appropriate time for this review.

**IF YOU CONTEST THE PENALTY ORDER:** You have the right to request a hearing. A request for hearing must be made in writing, setting forth the specific grounds upon which relief is sought. CK Enterprises must file, within fifteen (15) days from the date of service of this Order, the request for hearing with the Commission's electronic filing system found at <https://puc.kcc.ks.gov/e-filing/e-express/>, and must mail a copy of the request for hearing to the undersigned at the above address. If you do not have access to the internet, you can mail an original and seven (7) copies of the request to the Commission's Secretary at 1500 S.W. Arrowhead Road, Topeka, Kansas 66604 within fifteen (15) days from the date of service of this Penalty Order and mail a copy to the undersigned Litigation Counsel. K.A.R. 82-1-215; K.S.A. 2016 Supp. 77-542.

**IF YOU FAIL TO ACT:** Failure to pay the penalty of \$4,200 within thirty (30) days from the date of service of the Penalty Order or failure to comply with the terms of the attached Penalty Order, or in the alternative, failure to provide a written request for a hearing within fifteen (15) days from the date of service of this Penalty Order, will result in the attached Order becoming a Final Order and may result in additional sanctions of suspension and/or revocation of your motor carrier operating authority.

Respectfully,  
  
Arsan A. Laif  
Litigation Counsel  
(785) 271-3118

**THE STATE CORPORATION COMMISSION  
OF THE STATE OF KANSAS**

Before Commissioners:      Pat Apple, Chairman  
                                     Shari Feist Albrecht  
                                     Jay Scott Emler

In the Matter of the Investigation of **Gary )**  
**Cathey, d/b/a CK Enterprises, of Wichita, )**  
**Kansas,** Regarding the Violation of the Motor )  
Carrier Safety Statutes, Rules and Regulations ) Docket No. 17-TRAM-507-PEN  
and the Commission's Authority to Impose )  
Penalties, Sanctions and/or the Revocation of )  
Motor Carrier Authority. )

**PENALTY ORDER**

The above-captioned matter comes before the State Corporation Commission of the State of Kansas (Commission). The Commission, having been briefed on the issue by the Director of the Commission's Transportation Division, finds and concludes as follows:

**I. JURISDICTION**

1. Pursuant to K.S.A. 2016 Supp. 66-1,108b, 66-1,111, 66-1,112, 66-1,114, 66-1,114b and 66-1,115, the Commission is given full power, authority and jurisdiction to supervise and control motor carriers, as defined in K.S.A. 2016 Supp. 66-1,108, doing business or procuring business in Kansas, and is empowered to do all things necessary and convenient for the exercise of such power, authority and jurisdiction.

2. Pursuant to K.S.A. 2016 Supp. 66-1,129a, 66-1,130 and 66-1,142b, the Commission may suspend operations, revoke or amend certificates, and initiate sanctions or fines against every motor carrier and every person who violates any provision of Kansas law in regard to the regulation of such motor carriers and persons, or who fails to obey any order, decision or regulation of the Commission.

3. The Commission has the authority, pursuant to K.A.R. 82-1-237, to investigate an entity under the Commission's jurisdiction and order a hearing on the Commission's own motion when the Commission believes the entity is in violation of the law or any order of the Commission.

## **II. BACKGROUND**

4. Gary Cathey, d/b/a CK Enterprises (CK Enterprises) operates under USDOT number 936031.

5. CK Enterprises is a dirt construction and demolition company that owns three (3) straight trucks, one (1) truck tractor and two (2) owned and one (1) borrowed trailer. It employs two (2) CDL drivers.

6. CK Enterprises is a private and common motor carrier which primarily hauls building materials, machinery, large objects and construction.

## **III. STATEMENT OF FACTS**

7. Pursuant to the jurisdiction and authority cited above, on April 10, 2017, Commission Staff (Staff) Special Investigator(s) Gary Goeller conducted a compliance review of the operations of CK Enterprises. A copy of the safety compliance review is included in this Penalty Order as Attachment "A" and is hereby incorporated by reference. As a result of this investigation, Mr. Goeller identified six (6) violation(s) of the Motor Carrier Safety Regulations.

- a. On January 10, 2017, CK Enterprises required or permitted its driver, James E. Titchenor, Jr., to operate a CDL-required commercial motor vehicle, a 1994 Mack, VIN ending in 019943, GVWR 54,000 lbs., in intrastate commerce in and around the area of Wichita, Kansas. This trip is evidenced by a KCC Written Statement, dated April 10, 2017, and Load

Ticket Nos. 352693 and 352701, dated January 10, 2017, copies of which are attached hereto as Attachment "B" and are hereby incorporated by reference. At the time of this transportation, CK Enterprises had not implemented an alcohol and controlled substances testing program for its CDL drivers. The carrier's failure to establish an alcohol and controlled substances testing program for its CDL drivers that complies with the procedures established in 49 C.F.R. 382.105 as adopted by K.A.R. 82-4-3c is a violation of 49 C.F.R. 382.115(a), adopted by K.A.R. 82-4-3c, and authorized by K.S.A. 2016 Supp. 66-1,129. Staff recommends a fine of \$650.

- b. During the transportation described in paragraph a., above, CK Enterprises did not have a driver qualification file on its driver containing the required documents. The special investigator found two (2) violations of this type. The carrier's failure to maintain a driver qualification file on its drivers is a violation of 49 C.F.R. 391.51(a), adopted by K.A.R. 82-4-3g, and authorized by K.S.A. 2016 Supp. 66-1,129. Staff recommends a fine of \$750.
- c. During the transportation described in paragraph a., above, CK Enterprises failed to require its driver to make a record of duty status showing the date of the trip, the time the driver started driving, the time the driver stopped driving, and the total hours worked. The special investigator found ninety (90) violations of this type. The carrier's failure to require its driver to keep records of duty status for each 24-hour period using the method

described in 49 C.F.R. 395.8(a) and to submit the original record to the motor carrier within 13 days of creation is in violation of 49 C.F.R. 395.8(a), adopted by K.A.R. 82-4-3a, and authorized by K.S.A. 2016 Supp. 66-1,129. Staff recommends a fine of \$1,000.

- d. During the transportation described in paragraph a., above, CK Enterprises did not have records of inspections, repairs and maintenance on the commercial motor vehicle operated. The special investigator found five (5) violations of this type. The carrier's failure to maintain the required vehicle inspection records and vehicle maintenance records for 30 days is in violation of 49 C.F.R. 396.3(b), adopted by K.A.R. 82-4-3j, and authorized by K.S.A. 2016 Supp. 66-1,129. Staff recommends a fine of \$750.
- e. On March 8, 2017, CK Enterprises required or permitted its driver, James E. Titchenor, Jr., to operate a CDL-required commercial motor vehicle, a 1994 Mack, VIN ending in 019943, GVWR 54,000 lbs., in intrastate commerce in and around the area of Wichita, Kansas. This trip is evidenced by Load Ticket Nos. 354668 and 354676, dated March 8, 2017, copies of which are attached hereto as Attachment "C" and are hereby incorporated by reference. At the time of this transportation, CK Enterprises failed to require its driver to complete a driver's Daily Vehicle Inspection Report (DVIR) on the commercial motor vehicle operated. The special investigator found eight (8) violations of this type. The carrier's failure to require its driver to prepare a DVIR in writing, at the completion

of each day's work, on each commercial motor vehicle operated and to submit copies of the reports to the motor carrier for action and record retention is a violation of 49 C.F.R. 396.11(a)(1), adopted by K.A.R. 82-4-3j, and authorized by K.S.A. 2016 Supp. 66-1,129. Staff recommends a fine of \$300.

- f. During the transportation described in paragraph a., above, CK Enterprises permitted this transportation without first obtaining and documenting a successful periodic (annual) inspection on the 1994 Mack during the preceding 12-month period. The special investigator found five (5) violations of this type. CK Enterprises' failure to conduct periodic (annual) inspections on its commercial motor vehicles is a violation of 49 C.F.R. 396.17(c), adopted by K.A.R. 82-4-3j, and authorized by K.S.A. 2016 Supp. 66-1,129. Staff recommends a fine of \$750.

#### **IV. STAFF'S RECOMMENDATIONS**

8. Based upon the available facts, Staff recommends the Commission finds CK Enterprises committed six (6) violation(s) of Kansas law that governs motor carriers, including various provisions of the Federal Motor Carrier Safety Regulations (FMCSRs), as adopted by the Kansas Administrative Regulations, and is therefore subject to sanctions or fines imposed by the Commission.

9. Additionally, Staff recommends a civil penalty of \$4,200 for six (6) violation(s) of the Motor Carrier Safety Statutes, Rules and Regulations.

10. Staff further recommends that CK Enterprises be required to attend a Commission-sponsored safety seminar within ninety (90) days from the date of this Order, and

provide Transportation Staff with written proof of attendance. A schedule of the dates and locations for the safety seminar can be found on the Commission's website at [http://kcc.ks.gov/trans/safety\\_meetings.htm](http://kcc.ks.gov/trans/safety_meetings.htm).

11. Finally, Staff recommends that CK Enterprises submit to one follow-up safety compliance review within eighteen (18) months from the date of this Order. Transportation Staff will contact the motor carrier at a later date to determine an appropriate time for this review.

## **V. CONCLUSIONS OF LAW**

12. The Commission finds it has jurisdiction over CK Enterprises because it is a motor carrier as defined in K.S.A. 2016 Supp. 66-1,108.

13. The Commission finds CK Enterprises committed six (6) violation(s) of Kansas law that governs motor carriers, including various provisions of the Federal Motor Carrier Safety Regulations (FMCSRs), as adopted by the Kansas Administrative Regulations, and is therefore subject to sanctions or fines imposed by the Commission.

### **THE COMMISSION THEREFORE ORDERS THAT:**

A. Gary Cathey, d/b/a CK Enterprises, of Wichita, Kansas is hereby assessed a \$4,200 civil penalty for six (6) violation(s) of Kansas law governing the regulation of motor carriers, the Kansas Administrative Regulations and provisions of the Federal Motor Carrier Safety Regulations, as adopted by the Kansas Administrative Regulations.

B. CK Enterprises is hereby ordered to attend a Commission-sponsored safety seminar within ninety (90) days from the date of this Order, and is to provide Transportation Staff with written proof of attendance.

C. CK Enterprises is ordered to submit to one follow-up safety compliance review within eighteen (18) months from the date of this Order. Transportation Staff will contact the carrier to set up the appointment.

D. Pursuant to K.S.A. 2016 Supp. 77-537 and K.S.A. 77-542, any party may request a hearing on the above issue(s) by submitting a written request setting forth the specific grounds upon which relief is sought. The request may be electronically filed with the Commission's electronic filing system at <https://puc.kcc.ks.gov/e-filing/e-express/>, within fifteen (15) days from the date of service of this Order, and a copy of the request mailed to the Litigation Division. If you do not have access to the internet, you can mail an original and seven (7) copies of the request to the Commission's Secretary, at 1500 S.W. Arrowhead Road, Topeka, Kansas 66604, and mail a copy of the request to Litigation Counsel, within fifteen (15) days from the date of service of this Order. On May 25, 2017, this Penalty Order was mailed to CK Enterprises via Certified Mail, Return Receipt Requested, No. 70161970000105740693. Service of this Order is complete upon the date delivered shown on the Domestic Return Receipt. A hearing will be scheduled only upon written request. Failure to timely request a hearing will result in a waiver of CK Enterprises's right to a hearing, and this Penalty Order will become a Final Order assessing a \$4,200 civil penalty against CK Enterprises, and ordering CK Enterprises to attend a Commission-sponsored safety seminar within ninety (90) days from the date of this Order and provide Transportation Staff with written proof of attendance, and to submit to a safety compliance review within eighteen (18) months from the date of this Order.

E. Attorneys for all parties shall enter their appearances in Commission proceedings by giving their names and addresses for the record. For civil penalties exceeding \$500, a



corporation shall appear before the Commission by its attorney, unless waived by the Commission for good cause shown and a determination that such waiver is in the public interest. K.S.A. 77-515(c); K.A.R. 82-1-228(d)(2); K.A.R. 82-1-202(a). For civil penalties of \$500 or less, a corporation may appear by a duly authorized representative of the corporation. K.S.A. 2016 Supp. 66-1,142b(e) and amendments thereto.

F. If you do not request a hearing, the payment of the civil penalty of \$4,200 is due in thirty (30) days from the date of service of this Order. Payment of \$4,200, must be made through your personal account with the Kansas Corporation Commission's KTRAN application located at <https://puc.kcc.ks.gov/ktran/>. If you have not received a letter from the Transportation Division assigning you a PIN, please contact that Division at 785-271-3145. You must have an account through KTRAN to pay the penalty owed.

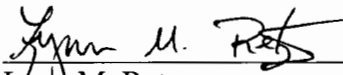
G. Failure to pay the \$4,200 civil penalty within thirty (30) days from the date of service of this Penalty Order, *see* K.S.A. 66-1,105, and/or failure to comply with the provisions of this Order, may result in suspension of CK Enterprises's motor carrier operating authority without further notice. Additionally, the Commission may impose further sanctions to include, but not limited to, the issuance and enforcement of revocation of authority and/or cease and desist orders, and any other remedies available to the Commission by law, without further notice.

H. The Commission retains jurisdiction over the subject matter and the parties for the purpose of entering such further orders, as necessary.

**BY THE COMMISSION IT IS SO ORDERED.**

Apple, Chairman; Albrecht, Commissioner; Emler, Commissioner

Dated: MAY 25 2017


  
\_\_\_\_\_  
Lynn M. Retz  
Secretary to the Commission

AAL

**Order Mailed Date**

**MAY 26 2017**

## **ATTACHMENT “A”**

|   |                           |   |  |                   |
|---|---------------------------|---|--|-------------------|
|    | <b>US DOT #</b><br>936031 | <b>Legal:</b> GARY CATHEY<br><b>Operating (DBA):</b> CK ENTERPRISES                         |  |                   |
| <b>MC/MX #:</b>   |                           | <b>Federal Tax ID</b> [REDACTED] (SSN)  |  |                   |
| <b>Review Type:</b> Compliance Review (CR)  |                           |   |  |                   |
| <b>Scope:</b> Principal Office  |                           | <b>Location of Review/Audit:</b> Company facility in the U. S.                              |  | <b>Territory:</b> |
| <b>Operation Types</b> Interstate Intrastate  |                           |   |  |                   |
| <b>Carrier:</b> N/A HM<br><b>Shipper:</b> N/A N/A<br><b>Cargo Tank:</b> N/A   |                           | <b>Business:</b> Individual<br><b>Gross Revenue:</b> [REDACTED] for year ending: 12/31/2016 |  |                   |
| <b>Company Physical Address:</b><br>[REDACTED]  |                           |   |  |                   |
| <b>Contact Name:</b> Gary Cathey<br><b>Phone numbers:</b> (1) [REDACTED] (2) [REDACTED] <b>Fax</b> [REDACTED]<br><b>E-Mail Address:</b> |                           |   |  |                   |
| <b>Company Mailing Address:</b><br>2501 N Broadway<br>Wichita, KS 67219   |                           |   |  |                   |
| <b>Carrier Classification</b><br>Exempt for Hire Private Property   |                           |   |  |                   |
| <b>Cargo Classification</b><br>Building Materials Machinery, Large Objects Construction   |                           |   |  |                   |
| <b>Hazardous Materials</b><br>9 Miscellaneous HM Carried Non-Bulk   |                           |   |  |                   |
| <b>Equipment</b>  |                           |   |  |                   |
|   | Owned                     | Term Leased   | Trip Leased                                      |                   |
| Truck   | 3                         | 0   | 0  | Truck Tractor     |
| Trailer   | 2                         | 1   | 0  |                   |
| Owned Term Leased Trip Leased   |                           |   |  |                   |
|   | 1                         | 0   | 0  |                   |
| Power units used in the U.S.: 4<br>Percentage of time used in the U.S.: 100   |                           |   |  |                   |
| <b>Does carrier transport placardable quantities of HM?</b> No<br><b>Is an HM Permit required?</b> N/A                                  |                           |   |  |                   |
| <b>Driver Information</b>   |                           |   |  |                   |
|   | Inter                     | Intra   |  |                   |
| < 100 Miles:  |                           | 2   | <b>Average trip leased drivers/month:</b> 0      |                   |
| >= 100 Miles:   |                           |   | <b>Total Drivers:</b> 2<br><b>CDL Drivers:</b> 2 |                   |





**CK ENTERPRISES (GARY CATHEY dba)**  
U.S. DOT #: 936031

Review Date:  
04/10/2017

**Part A**

QUESTIONS regarding this report or the Federal Motor Carrier Safety or  
Hazardous Materials rules may be addressed to the Office of Motor Carriers at:

Kansas Corporation Commission  
Attn: Gary Davenport  
1500 SW Arrowhead Rd., Topeka, KS 66604-4027

**This report will be used to assess your safety compliance.**

**Person(s) Interviewed**

**Name:** Gary Cathey

**Title:** Owner

**Name:**

**Title:**



|   |                    |              |
|---|--------------------|--------------|
|  | GARY CATHEY        | Review Date: |
|   | U.S. DOT #: 936031 | 04/10/2017   |

### Part B Violations

|   |   |                 |              |                                       |              |
|---|---|-----------------|--------------|---------------------------------------|--------------|
| 1<br>FEDERAL  | Primary: 382.115(a)                             | Discovered<br>1 | Checked<br>1 | Drivers/Vehicles<br>In Violation<br>0 | Checked<br>0 |
| <p><b>Description</b><br/>Failing to implement an alcohol and/or controlled substances testing program on the date the employer begins commercial motor vehicle operations.</p> <p><b>Example</b><br/>[REDACTED]<br/>Trip Date 01.10.2017</p> <p>Carrier does not have a controlled substance and/or alcohol testing program.</p> <p>Operated the 1994 Mack KS tag [REDACTED] KS VIN# [REDACTED] 019943, GVWR 54000 4 axle dump truck on an intra state trip in the Wichita, KS area.</p> |   |                 |              |                                       |              |
| 2<br>FEDERAL  | Primary: 390.19(b)(2)                           | Discovered<br>1 | Checked<br>1 | Drivers/Vehicles<br>In Violation<br>0 | Checked<br>0 |
| <p><b>Description</b><br/>Failing to update MCS150 every 24 months</p> <p><b>Example</b><br/>[REDACTED]<br/>Trip Date 01.10.2017</p> <p>Carrier obtained USDOT number on 02.26.2001 and it has not been updated</p> <p>Operated the 1994 Mack KS tag [REDACTED] KS VIN# [REDACTED] 019943, GVWR 54000 4 axle dump truck on an intra state trip in the Wichita, KS area.</p>   |   |                 |              |                                       |              |
| 3<br>STATE  | Primary: 391.51(a)<br>CFR Equivalent: 391.51(a) | Discovered<br>3 | Checked<br>3 | Drivers/Vehicles<br>In Violation<br>3 | Checked<br>3 |
| <p><b>Description</b><br/>Failing to maintain driver qualification file on each driver employed.</p> <p><b>Example</b><br/>[REDACTED]<br/>Trip Date 01.10.2017</p> <p>Carrier does not have any driver qualification files.</p> <p>Operated the 1994 Mack KS tag [REDACTED] KS VIN# [REDACTED] 019943, GVWR 54000 4 axle dump truck on an intra state trip in the Wichita, KS area.</p>   |   |                 |              |                                       |              |





GARY CATHEY  
U.S. DOT #: 936031

Review Date:  
04/10/2017

### Part B Violations

| 4<br>STATE   | Primary: 395.6(a)<br>CFR Equivalent: 395.6(a)       | Discovered<br>90 | Checked<br>90 | Drivers/Vehicles<br>In Violation<br>3 | Checked<br>3 |
|--|---|------------------|---------------|---------------------------------------|--------------|
| <b>Description</b><br>Failing to require driver to make a record of duty status.<br>[REDACTED]<br>Trip Date 01.10.2017<br><br>No HOS kept for any of the drivers operations.<br><br>Operated the 1994 Mack KS tag [REDACTED] KS VIN# [REDACTED] 019943, GVWR 54000 4 axle dump truck on an intra state trip in the Wichita, KS area.   |   |                  |               |                                       |              |
| 5<br>STATE   | Primary: 396.3(b)(3)<br>CFR Equivalent: 396.3(b)(3) | Discovered<br>5  | Checked<br>5  | Drivers/Vehicles<br>In Violation<br>5 | Checked<br>5 |
| <b>Description</b><br>Failing to keep a record of inspection, repairs and maintenance indicating their date and nature.<br><b>Example</b><br>[REDACTED]<br>Trip Date 01.10.2017<br><br>Carrier has not kept any written inspection, repair, or maintenance records.<br><br>Operated the 1994 Mack KS tag [REDACTED] KS VIN# [REDACTED] 019943, GVWR 54000 4 axle dump truck on an intra state trip in the Wichita, KS area.  |   |                  |               |                                       |              |
| 6<br>STATE   | Primary: 396.9(d)(3)<br>CFR Equivalent: 396.9(d)(3) | Discovered<br>6  | Checked<br>6  | Drivers/Vehicles<br>In Violation<br>6 | Checked<br>6 |
| <b>Description</b><br>Failing to maintain completed inspection form for 12 months from the date of inspection at the carrier's principal place of business or where vehicle is housed.<br><b>Example</b><br>[REDACTED]<br>Trip Date 06.27.2016<br><br>Carrier failed to keep any copy of any roadside inspections for the last 12 months<br><br>Operated the 1994 Mack KS tag [REDACTED] KS VIN# [REDACTED] 019943, GVWR 54000 4 axle dump truck on an intra state trip in the Wichita, KS area. |   |                  |               |                                       |              |
| 7<br>STATE   | Primary: 396.11(a)<br>CFR Equivalent: 396.11(a)     | Discovered<br>6  | Checked<br>6  | Drivers/Vehicles<br>In Violation<br>2 | Checked<br>2 |
| <b>Description</b><br>Failing to require driver to prepare driver vehicle inspection report.<br><b>Example</b><br>[REDACTED]<br>Trip Date 03.08.2017<br><br>Carrier failed to require drivers to complete a written post trip inspection.<br><br>Operated the 1994 Mack KS tag [REDACTED] KS VIN# [REDACTED] 019943, GVWR 54000 4 axle dump truck on an intra state trip in the Wichita, KS area.  |   |                  |               |                                       |              |





GARY CATHEY  
U.S. DOT #: 936031

Review Date:  
04/10/2017

### Part B Violations

| 8<br>STATE | Primary: 396.17(a)<br>CFR Equivalent: 396.17(a) | Discovered<br>5 | Checked<br>5 | Drivers/Vehicles<br>In Violation<br>5 | Checked<br>5 |
|------------|---|-----------------|--------------|---------------------------------------|--------------|
|------------|---|-----------------|--------------|---------------------------------------|--------------|

**Description**

Using a commercial motor vehicle not periodically inspected.

**Example**

Trip Date 01.10.2017

No copy of any current annual inspections on file or in trucks.

Operated the 1994 Mack KS tag [REDACTED], KS VIN# [REDACTED] 019943, GVWR 54000 4 axle dump truck on an intra state trip in the Wichita, KS area.

**Safety Fitness Rating Information:**

Total Miles Operated 27,500  
Recordable Accidents 0

OOS Vehicle (CR): 0  
Number of Vehicle Inspected (CR): 0  
OOS Vehicle (MCMIS): 5  
Number of Vehicles Inspected (MCMIS): 6

Your proposed safety rating is :

**This Review is not Rated.**







GARY CATHEY  
U.S. DOT #: 936031

Review Date  
04/10/2017

## Part B Requirements and/or Recommendations

1. Copies of the regulations, forms, interpretations, and manuals are available from a variety of sources. Check the FMCSA website for a current list of suppliers. [www.fmcsa.dot.gov/safety-security/eta/index.htm](http://www.fmcsa.dot.gov/safety-security/eta/index.htm)
2. A copy of your carrier profile can be obtained at no cost from the FMCSA Portal (<https://portal.fmcsa.dot.gov/login>).
3. Ensure that all vehicles are properly marked with your name or trade name and U.S. DOT number. If your vehicles are also periodically operating for other carriers, they must be marked with that carrier's name and U.S. DOT#.
4. Conduct periodic internal reviews of your driver qualification, hours of service control, maintenance, accident analysis/reporting, training, and other safety systems to ensure continued compliance with the FMCSR.
5. Obtain a copy of each driver's driving record and review it annually.
6. Review the circumstances under which a CDL is required. CDL and drug testing rules apply to both interstate and intrastate commerce.
7. Ensure that drivers provide a 10-year employment history on their employment application.
8. Ensure that all drivers are fully and properly qualified before operating in interstate commerce. Maintain a complete file as required for each driver, documenting the qualification process.
9. Do not allow drivers to drive intra-state unless they have been physically re-examined each 24 months.
10. Require all drivers to prepare complete and accurate records of duty status for each day, and to submit them within 13 days. Maintain all duty status records on file, with all supporting documents for at least 6 months.
11. Ensure that all documents supporting records of duty status (such as toll, fuel repair and other on-the-road expense receipts, as well as invoices, bills of lading, dispatch records, etc.) are kept on file for at least 6 months.
12. Obtain from any driver used for the first time (or intermittently) a signed statement showing the total time on-duty during the preceding seven (7) days and the time at which the driver was last relieved from duty.
13. If you want some drivers to use the 100 air-mile radius exemption, make sure that the drivers meet all terms of the exemption, including being released from duty no more than 12 hours from when they report for duty. Logs must be prepared if a driver does not meet the 12 hour requirement.
14. Require all drivers to prepare a written inspection report for each day a vehicle is operated. Ensure that each report is signed by the driver, certified, and reviewed if defects are reported.
15. HOS COMPLIANCE BASIC PROCESS BREAKDOWN: Policies and Procedures

DESCRIPTION OF PROCESS BREAKDOWN: Gary Cathey has not developed a HOS compliance system, he does not have the drivers complete any time records or log books and just takes their word on how many hours they have worked and pays in cash.

### BASIC SPECIFIC RECOMMENDED REMEDIES

Implement Safety Improvement Practices: The following are recommended practices related to Policies and Procedures

- Develop a policy and procedure describing how management will monitor and track logs for falsification.





GARY CATHEY  
U.S. DOT #: 936031

Review Date:  
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## Part B Requirements and/or Recommendations

- Establish a policy that prohibits dispatchers from assigning a load to drivers without hours available to complete the load on time.
- Develop a policy stating that drivers should not violate their Hours-of-Service (HOS) Out-of-Service (OOS) order under any circumstances, and immediately contact the carrier when a driver is placed OOS.
- Develop a policy requiring drivers to report their available hours to dispatch during "check-in" calls.
- Develop policies and procedures for ensuring proper retention of Record of Duty Status (RODS) according to regulations.
- Establish a policy requiring drivers to submit copies of all roadside inspections to carrier management within 24 hours.
- Develop a policy stating that drivers are required to submit all Records of Duty Status (RODS) and supporting documentation, such as expense receipts, within 13 days of the end of the trip.
- Establish a policy stating that drivers are required to check with their supervisor, manager, or dispatcher to review their "fit-for-duty" status before starting a job, and that drivers who are ill to the extent that their ability and/or alertness is impaired are prohibited from working on safety-sensitive assignments.
- Develop a written and progressive disciplinary policy focused on taking corrective action to ensure drivers comply with regulations and policies. A progressive disciplinary policy could include, among other things, written warnings, suspensions, or work restrictions, monetary penalties, and termination. This policy should also specify consequences for any carrier official who knowingly and willfully allows Hours-of-Service (HOS) violations.

### Seek Out Resources:

- You are encouraged to review your company's record at the following website: <http://ai.fmcsa.dot.gov/SMS>. You will need to use your PIN Number that has been provided by the FMCSA.
- Contact industry associations to get resources and ideas on safety improvement practices from other carriers in the industry.

## 16. VEHICLE MAINTENANCE BASIC - INSPECTION-REPAIR-MAINTENANCE PROCESS BREAKDOWN: Policies and Procedures

DESCRIPTION OF PROCESS BREAKDOWN: Gary Cathey does not have any written maintenance records or program, no completed annual periodic inspections.

### BASIC SPECIFIC RECOMMENDED REMEDIES

Implement Safety Improvement Practices: The following are recommended practices related to Policies and Procedures.

- Develop a system of preventive maintenance for compliant, safe, and efficient fleet operations, including a schedule for periodic maintenance, inspection, and recordkeeping. This system should be attuned to manufacturer recommendations, the carrier's own experience, and regulatory requirements.
- Develop a procedure ensuring that vehicle defects that impact safety and/or safety compliance are reported, repaired, and certified before the vehicle is operated.
- Develop procedures to ensure that management is notified of vehicle defects through the use of Driver Vehicle Inspection Records (DVIRs) and other communication channels, such as driver call-in and e-mail from mechanics.
- Develop a policy ensuring that drivers are qualified to complete thorough and timely Driver Vehicle Inspection Records (DVIRs) by the end of the day of the trip and prior to a subsequent assignment.
- Establish a policy requiring drivers to submit copies of all roadside inspections to carrier management within 24 hours.
- Develop policies and procedures requiring drivers to immediately notify appropriate management of any roadside vehicle Out-of-Service (OOS) order.
- Develop a written and progressive disciplinary policy focused on taking corrective action to ensure drivers comply with regulations and policies. A progressive disciplinary policy could include, among other things, written warnings, suspensions, or work restrictions, monetary penalties, and termination. This policy should also specify consequences for any carrier official who knowingly and willfully allows vehicle maintenance violations.

### Seek Out Resources:

- You are encouraged to review your company's record at the following website: <http://ai.fmcsa.dot.gov/SMS>. You will need to use your PIN Number that has been provided by the FMCSA.
- Contact industry associations to get resources and ideas on safety improvement practices from other carriers in





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the industry

### 17. CONTROLLED SUBSTANCES AND ALCOHOL BASIC PROCESS BREAKDOWN: Policies and Procedures

**DESCRIPTION OF PROCESS BREAKDOWN:** Gary Cathey does not and has not had any type of controlled substance and/or alcohol testing program in the past

#### BASIC SPECIFIC RECOMMENDED REMEDIES

**Implement Safety Improvement Practices:** The following are recommended practices related to Policies and Procedures

- Develop a written company policy incorporating by reference all regulations regarding controlled substances and alcohol use, testing, training, and records retention for all employees.
- Develop a policy requiring drivers to submit copies of all citations for moving violations to carrier management within 24 hours.
- Establish a process to ensure that drivers who are randomly tested can be immediately removed if they are found to be positive and that they do not return to safety-sensitive duties until they have complied with the "return-to-duty" process.
- Establish written policies and procedures that promote, verify, and enforce adherence to all controlled-substance and alcohol rules and regulations. Procedures should be tailored to company operations and should provide specific checks and guidelines for interacting with a consortium, if applicable.
- Establish a process to ensure that test results are properly safeguarded from unauthorized disclosure to prospective employers without specific written consent and from disclosure under any circumstances to insurance companies and other nonqualified parties, in accordance with regulations.
- Develop a policy to ensure that all alcohol testing is conducted immediately before or after the period that employees are performing a safety-sensitive function. Drivers can be tested on their day off only for controlled substances. Once notified of their selection, drivers must proceed immediately to the testing facility. If a driver refuses to go, this should be considered as equivalent to a positive result.
- Consider developing a driver selection protocol that uses valid random-number-generator software on a monthly basis to select, by driver identification number, 5 to 8 percent of drivers for controlled-substance testing and 2 to 5 percent for alcohol testing. This will ensure selection of 50 percent of drivers for controlled-substances testing and 10 percent for alcohol testing per year, given fluctuations in the driver workforce over the course of the year.
- Develop a written and progressive disciplinary policy focused on taking corrective action to ensure drivers comply with regulations and policies. A progressive disciplinary policy could include, among other things, written warnings, suspensions, or work restrictions, monetary penalties, and termination. This policy should also specify consequences for any carrier official who knowingly and willfully allows controlled-substance and alcohol violations.

**Seek Out Resources:**

- You are encouraged to review your company's record at the following website: <http://ai.fmcsa.dot.gov/SMS>. You will need to use your PIN Number that has been provided by the FMCSA.
- Contact industry associations to get resources and ideas on safety improvement practices from other carriers in the industry.

### 18. DRIVER FITNESS BASIC PROCESS BREAKDOWN: Policies and Procedures

**DESCRIPTION OF PROCESS BREAKDOWN:** Gary Cathey does not have any type of driver qualification files for any current or past drivers.

#### BASIC SPECIFIC RECOMMENDED REMEDIES

**Implement Safety Improvement Practices:** The following are recommended practices related to Policies and Procedures

- Develop a policy for the periodic review (at least twice per year) of driver qualification files. The motor carrier should not rely on third-party sources, such as insurance agencies. The procedure should include controls to ensure that documents requiring renewals are in place, to remind drivers of expiration dates on medical certificates, so they can schedule another physical examination in advance, and to prevent falsification of documents related to driver





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qualification.

- Establish a policy requiring drivers to submit copies of all vehicle and roadside inspections and moving violations to carrier management within 24 hours, and to notify management of suspended or revoked Commercial Driver's Licenses (CDLs) immediately following notification of suspension/revocation.
- Establish a policy requiring all new (since 2003) Commercial Driver's License (CDL) drivers to submit documentation of entry-level driver training in - for example, driver qualification requirements, Hours of Service (HOS), driver wellness, and whistleblower protection - or to take entry-level training provided by the carrier.
- Develop a policy for document retention and recordkeeping, including documents that are to be in the possession of the driver as proof of credentials.
- Develop a process to ensure that operations will always have the proper amount of fit drivers. This process would address how to deal with issues such as sick leave, vacation, training, suspension, and termination.
- Develop a written and progressive disciplinary policy focused on taking corrective action to ensure drivers comply with regulations and policies. A progressive disciplinary policy could include, among other things, written warnings, suspensions, or work restrictions, monetary penalties, and termination. This policy should also specify consequences for any carrier official who knowingly and willfully allows Driver Fitness Violations.

Seek Out Resources:

- You are encouraged to review your company's record at the following website: <http://ai.fmcsa.dot.gov/SMS>. You will need to use your PIN Number that has been provided by the FMCSA.
- Contact industry associations to get resources and ideas on safety improvement practices from other carriers in the industry

### 19. For all Investigations:

- Understand Why Compliance Saves Time and Money: Compliance with FMCSRs will not only save lives, but also saves your business time and money. Tracking how much your business spends on non-compliance activities can help you understand the many benefits of compliance to your business and why safety is good business.
- Document and Follow Through on Action Plans: Document and follow through on action plans to ensure the actions you are taking are creating improvement in safety management and compliance.
- NOTICE: A pattern and/or repeated violations of the same or related acute or critical regulations (violations of the same Part in Title 49, Code of Federal Regulations) will cause the maximum penalties allowed by law to be assessed under Section 222 of the Motor Carrier Safety Improvement Act of 1999 (MCSIA). A pattern of violations means two or more violations of acute and/or critical regulations in three or more Parts of Title 49, Code of Federal Regulations discovered during any eligible investigation. Repeated violations means violation(s) of an acute regulation of the same Part of Title 49, Code of Federal Regulations discovered in an investigation after one or more closed enforcement actions within a six year period and/or violation(s) of a critical regulation in the same Part of Title 49, Code of Federal Regulations discovered in an investigation after two or more closed enforcement actions within a six year period.
- NOTICE: 49 CFR Part 391.23 requires prospective employers to, at a minimum, investigate a driver's employment information, crash record, and alcohol and controlled substances history from all employers the driver worked for within the previous 3 years.

The Pre-Employment Screening Program (PSP) is a screening tool that assists motor carriers in investigating crash history and roadside safety performance of prospective drivers. The PSP allows motor carriers to purchase 5 years of crash data and 3 years of roadside inspection data from the Federal Motor Carrier Safety Administration's (FMCSA) Motor Carrier Management Information System (MCMIS). Records are available 24 hours a day via Web request. Motor carriers should visit the following website for more information:  
<http://www.psp.fmcsa.dot.gov/Pages/default.aspx>

- All motor carriers and truck drivers are needed to fight against terrorism and hijacking. You could be a target. Protect yourself, your trucks, your cargo, and your facilities.





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### Part B Requirements and/or Recommendations

For all Investigations that could result in a Penalty Order:

• PLEASE NOTE: The violations discovered during this compliance review may affect the civil penalty proposed in any subsequent Penalty Order. In addition, your history of prior violations of the Federal Motor Carrier Safety Regulations, Federal Hazardous Material Regulations or the Federal Motor Carrier Commercial Regulations may also affect the civil penalty proposed in any subsequent Penalty Order. Your signature for receipt of this report acknowledges your understanding that the violations discovered by the KCC during this review may be used to calculate any civil penalty proposed as a result of this review. Your signature is not an admission of the violations identified.

For all Investigations that did not result in a Cooperative Safety Plan:

The KCC requires that you prepare a corrective action letter, addressing the measures taken to correct the violations identified within this report. Submit this letter within 30 days outlining the carrier's updated changes to their policies and procedures regarding all listed violations. Explain in detail how, as a carrier representative, you will rectify these deficiencies and prevent their reoccurrence going forward. Include any supporting documentation and evidence as indicated in the recommendations above, (example: vehicle inspections performed, proof of drug and alcohol testing in place, etc.) necessary to prove that corrective action has been taken. Mail the letter along with copies of your supporting evidence to:

Kansas Corporation Commission  
Attn: Gary Davenport  
1500 SW Arrowhead Rd  
Topeka, KS 66604-4027

20. This report contains citations of regulations that are deemed serious in nature and could result in penalties against your company and/or your drivers.
21. I acknowledge that these requirements and/or recommendations have been discussed with me and my questions have been answered. I understand that failure to satisfactorily remedy the above-listed requirements, and/or failure to comply with Kansas Motor Carrier Safety Statutes and Regulations could result in the suspension of Gary Cathey dba CK Enterprises's vehicles operating authority and/or the impoundment of Gary Cathey dba CK Enterprises's vehicles.

Signed Gary Cathey

Date 4-10-17

22. Stay in contact with your KCC Investigator for any questions or issues with continued safety compliance. You may contact me: KCC Special Investigator Gary Goeller at 785-623-0541 or email at g.goeller@kcc.ks.gov



## **ATTACHMENT “B”**

## KCC WRITTEN STATEMENT

Signed Statement of Gary Cathey dba CK Enterprises,

Representative of Motor Carrier: Gary Cathey DBA CK Enterprises USDOT#936031

I, Gary Cathey, voluntarily give the following statement  
to Gary Goeller, [REDACTED], who has identified himself/herself as a  
Special Investigator for the State Of Kansas, Kansas Corporation Commission. No threats  
or promises have been made to me in exchange for this statement.

## NARRATIVE:

Is James E. Titchener Jr. a CDL driver for Gary Cathey dba CK Enterprises and operate a CDL  
required vehicle a 1994 Mack Truck KS Tag [REDACTED] on a trip in Wichita, KS transporting a load of  
sand indicated on scale ticket 352693 from Associated Material and Supply Inc.

Answer: yes

Is Gary W. Gillis a CDL driver for Gary Cathey dba CK Enterprises and operate a CDL required  
vehicle a 1977 International Truck KS VIN# [REDACTED] 11582 on two loads to the CDR North Landfill  
in Wichita, KS on 04.07.2017.

Answer: yes

I have read the foregoing statement consisting of    page(s). It is true, accurate and complete to  
The best of my knowledge. I reviewed any changes and they bear my initials.

I sign this statement under the penalty of perjury in the presence of My [Signature]

Witness/Interviewee's signature

Date

[Signature]4-10-17

Safety Investigator's Signature

Date

[Signature] KS82044-10-2017

ASSOCIATED MATERIAL AND SUPPLY CO. , INC.

Wichita, KS 67204

**Ticket 352693**

1/10/2017 11:49:36AM

ACCOUNTING OFFICE:

PLANT I: Mulvane, KS

PLANT II: North, Wichita, KS

Location: II Plant II

Carrier CREDIT CREDIT CARD CUSTOMER  
Vehicle 3 3

Customer 9999 VISA/MC PURCHASE  
Order GARY CATHEY

Product LV LOW VOLUME

P.O.  
Deliver

Weighmaster PLANT II

Received

|         | Qty       | Rate   | Amount |
|---------|-----------|--------|--------|
| Product | 13.01 Ton | 3.25   | 42.28  |
| Freight |           | 0.00   | 0.00   |
| Tax     | SEDCO     | 7.5000 | 3.17   |
| Total   |           |        | 45.45  |

|       | Pounds  | Tons    | Metric  |
|-------|---------|---------|---------|
| Gross | 50560 * | 25.28 * | 22.93 * |
| Tare  | 24540 * | 12.27 * | 11.13 * |
| Net   | 26020 * | 13.01 * | 11.80 * |

\* Manual Weight

|       | Today | Order |
|-------|-------|-------|
| Loads | 1     | 0     |
| Qty   | 13.01 | 0.00  |



ASSOCIATED MATERIAL AND SUPPLY CO., INC.

Wichita, KS 67204

**Ticket 352701**

1/10/2017 12:40:57PM

ACCOUNTING OFFICE:

PLANT I: Mulvane, KS

PLANT II: North, Wichita, KS

Location: II

Plant II

Carrier CREDIT CREDIT CARD CUSTOMER  
Vehicle 3 3

Customer 9999 VISA/MC PURCHASE  
Order GARY CATHEY

Product LV LOW VOLUME

P.O.  
Deliver

Weighmaster PLANT II

Received

|         | Qty      | Rate   | Amount |
|---------|----------|--------|--------|
| Product | 12.91Ton | 3.25   | 41.96  |
| Freight |          | 0.00   | 0.00   |
| Tax     | SEDCO    | 7.5000 | 3.15   |
| Total   |          |        | 45.11  |

|       | Pounds  | Tons    | Metric  |
|-------|---------|---------|---------|
| Gross | 50360 m | 25.18m  | 22.84 m |
| Tare  | 24540 * | 12.27 * | 11.13 * |
| Net   | 25820m  | 12.91m  | 11.71 m |

m Manual Weight, \* Manual F

|       | Today | Order |
|-------|-------|-------|
| Loads | 2     | 0     |
| Qty   | 25.92 | 0.00  |

## **ATTACHMENT “C”**

ASSOCIATED MATERIAL AND SUPPLY CO., INC.

Wichita, KS 67204

Ticket 354668

3/8/2017 10:45:09AM

ACCOUNTING OFFICE:

PLANT I: Mulvane, KS  
PLANT II: Wichita, KS

Location: II Plant II

Carrier CK CK ENTERPRISES  
Vehicle 206 206  
Customer 1402 CASH SALES  
Order

Product FS FILL SAND

P.O.  
Deliver

Weighmaster PLANT II  
Received

|         | Qty       | Rate   | Amount |
|---------|-----------|--------|--------|
| Product | 13.14 Ton | 2.60   | 34.16  |
| Freight |           | 0.00   | 0.00   |
| Tax     | SEDCO     | 7.5000 | 2.56   |
| Total   |           |        | 36.72  |

|       | Pounds  | Tons    | Metric  |
|-------|---------|---------|---------|
| Gross | 50860 * | 25.43 * | 23.07 * |
| Tare  | 24580 * | 12.29 * | 11.15 * |
| Net   | 26280 * | 13.14 * | 11.92 * |

\* Manual Weight

|       | Today | Order |
|-------|-------|-------|
| Loads | 1     | 0     |
| Qty   | 13.14 | 0.00  |

ASSOCIATED MATERIAL AND SUPPLY CO., INC.

Wichita, KS 67204

**Ticket 354676**

3/8/2017 12:00:24PM

ACCOUNTING OFFICE:

PLANT I: Mulvane, KS

PLANT II: Wichita, KS

Location: II

Plant II

Carrier CK CK ENTERPRISES  
Vehicle 206 206  
Customer 1402 CASH SALES  
Order

Product FS FILL SAND

P.O.  
Deliver

Weighmaster PLANT II

Received

|         | Qty       | Rate   | Amount |
|---------|-----------|--------|--------|
| Product | 12.93 Ton | 2.60   | 33.62  |
| Freight |           | 0.00   | 0.00   |
| Tax     | SEDCO     | 7.5000 | 2.52   |
| Total   |           |        | 36.14  |

|       | Pounds  | Tons    | Metric  |
|-------|---------|---------|---------|
| Gross | 50440 * | 25.22 * | 22.88 * |
| Tare  | 24580 * | 12.29 * | 11.15 * |
| Net   | 25860 * | 12.93 * | 11.73 * |

\* Manual Weight

|       | Today | Order |
|-------|-------|-------|
| Loads | 2     | 0     |
| Qty   | 26.07 | 0.00  |

**CERTIFICATE OF SERVICE**

17-TRAM-507-PEN

I, the undersigned, certify that the true copy of the attached Order has been served to the following parties by means of first class mail/hand delivered on **MAY 25 2017**.

GARY CATHEY, OWNER/OPERATOR  
GARY CATHEY  
D/B/A CK ENTERPRISES  
2501N BROADWAY  
WICHITA, KS 67219

AHSAN LATIF, LITIGATION COUNSEL  
KANSAS CORPORATION COMMISSION  
1500 SW ARROWHEAD RD  
TOPEKA, KS 66604-4027  
Fax: 785-271-3354  
a.latif@kcc.ks.gov

/S/ DeeAnn Shupe  
\_\_\_\_\_  
DeeAnn Shupe

**Order Mailed Date**

**MAY 26 2017**